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REMARKS

In the Office Action, claims 1-23 and 40-55 were rejected. Claims 22 and 23 were indicated to be allowable if re-written. Claims 20 and 21 have been canceled. Claims 1, 40, and 49 have been amended. Support for the amendment can be found throughout the specification, and at least on page 15, lines 1-14. With this Amendment, pending claims 1-20, 22-23 and 40-55 are presented for reconsideration and favorable action.

Claims 1-23 and 40-55 were rejected under 35 U.S.C. 112, first paragraph. While applicants believe that there is support for "non-deformable component" throughout the application, this language has been deleted from claims 1, 40 and 49. The rejection can now be withdrawn.

Claims 1-11, 15-19, 40-45, and 48-54 were rejected under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent No. 6,099,561(Alt). Claims 1-11, 14-15, 18-21, 40-45 and 47-54 were rejected under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent No. 5,578,075 (Dayton). Claims 40-45 and 48-54 were also rejected under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent No. 5,769,884 (Solovay). Applicants traverse the rejections.

Claims 1, 40 and 49, as amended, are directed to an implantable prosthesis or medical device comprising a rigid material with pores formed in the rigid material, or substantially extending through the rigid material, wherein the rigid material is selected from the group consisting of metals, carbonaceous solids and ceramics.

Alt ('053 embodiment referred to by the Examiner) describes two layers: "a first solid layer" of a base metal and "a second porous layer". (See col. 5, lines 18-20.) The pores are not in the solid layer. In contrast, independent claims 1 and 40 state that the pores are "formed in the rigid material" and independent claim 49 states that the pores substantially extend through the rigid material, and the rigid material in claims 1, 40 and 49 is selected from the group consisting of metals, carbonaceous solids and ceramics. The claims do not include a second porous layer. The rejection should be withdrawn.

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Dayton also describes a stent formed from a metal which is coated by a polymer. See col. 4, lines 1-2. It is the polymer coating that has a microporous structure. See col. 6, lines 59-60. Separate layers are used for the rigid material (stent) and the porous material (polymer). The pores are not formed in, or do not substantially extend through, the rigid material. The rejection should be withdrawn.

Solovay also describes a stent having a stent covering 30. It is the stent covering 30 that has pores, not the stent. See col. 4, lines 11-12. Again, separate layers are used for the rigid material (stent) and the porous material (stent covering). The pores are not formed in, or do not substantially extend, through the rigid material. The rejection should be withdrawn.

Since Alt, Dayton and Solovay fail to teach each and every element of claims 1, 40 and 49, Alt, Dayton and Solovay fail to anticipate claims 1, 40 and 49 and the claims that depend therefrom. Claims 1-20, 22-23 and 40-55 are believed allowable. Reconsideration and allowance is respectfully requested.

The Examiner further rejected claims 12-13, 46 and 55 under 35 U.S.C 103(a) as being unpatentable over Dayton in view of U.S. Patent No. 6,033,436 (Steinke et al.) As discussed above, Dayton describes a stent formed from a metal which is coated by a polymer. It is the polymer coating that has a microporous structure. Separate layers are used for the rigid material (stent) and the porous material (polymer). The pores are not formed in, and do not substantially extend through, the rigid material. Steinke does not supply this deficiency. The rejection should be withdrawn. Claims 12-13, 46 and 55 are believed allowable. Therefore, reconsideration and allowance of claims 12-13, 46 and 55 is respectfully requested.

In view of the amendments and reasons provided above, it is believed that all pending claims are in condition for allowance. Applicant respectfully requests favorable reconsideration and early allowance of all pending claims.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's attorney of record, Hallie A. Finucane at

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612-334-3222.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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